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APPLE INC., NBCUNIVERSAL MEDIA, LLC,
6 and STORYTELLER DISTRIBUTION CO., LLC,
dba AMBLIN PARTNERS
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
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12 DARREL JACKSON, dba JED
PRODUCTIONS,

13 Plaintiff,
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15 v.

16 APPLE, INC., a California corporation;
NBCUNIVERSAL MEDIA, LLC, a
Delaware limited liability company;
17 STORYTELLER DISTRIBUTION
CO., LLC, a Delaware limited liability
18 company, dba AMBLIN PARTNERS;
DARYL ANDERSON and AMBER
19 ANDERSON, individually and doing
business as NAKAMICHE MUZIC
20 PUBLISHING,

21 Defendants.
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Case No.: 4:20-cv-03232-JSW

Assigned to Hon. Jeffrey S. White

**ANSWER OF DEFENDANTS
APPLE, INC., NBCUNIVERSAL
MEDIA, LLC, AND
STORYTELLER DISTRIBUTION
CO., LLC, dba AMBLIN
PARTNERS TO FIRST
AMENDED COMPLAINT**

First Amended Complaint Filed:
June 2, 2020

Defendants Apple Inc.¹ (“Apple”), NBCUniversal Media, LLC (“NBCUniversal”) and Storyteller Distribution Co., LLC, dba Amblin Partners (Amblin”) (collectively, the “Amazing Stories Defendants”) answer the First Amended Complaint filed by plaintiff Darrel Jackson (“Plaintiff”) in this action as follows:

INTRODUCTION

1. No response to Paragraph 1 is required, as it purports to characterize the claims in this action. To the extent a response is required, the Amazing Stories Defendants admit that this action purports to seek damages and injunctive relief for copyright infringement, slander of title, intentional interference with prospective economic relations, false designation of origin and defamation.

JURISDICTION AND VENUE

2. Paragraph 2 contains legal conclusions, to which no response is required. To the extent a response is required, the Amazing Stories Defendants state that they do not challenge the Court’s subject matter jurisdiction in this action.

3. Paragraph 3 contains legal conclusions, to which no response is required. To the extent a response is required, the Amazing Stories Defendants do not challenge personal jurisdiction over them in this action. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the principal places of business and activities of the other Defendants in this action, and on that basis deny the allegations contained in Paragraph 3 as they pertain to those other Defendants.

4. Paragraph 4 contains legal conclusions, to which no response is required. To the extent a response is required, the Amazing Stories Defendants do not challenge venue in this action.

¹ Plaintiff improperly commenced this action against “Apple, Inc.” The proper name for this entity is “Apple Inc.” (without the comma).

PARTIES

5. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5, and on that basis deny said allegations.

6. Apple admits the allegations contained in Paragraph 6. NBCUniversal and Amblin lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6, and on that basis deny said allegations.

7. NBCUniversal denies the allegations contained in Paragraph 7, except admits that NBCUniversal and/or its subsidiaries conduct business in the Northern District of California. Apple and Amblin lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7, and on that basis deny said allegations.

8. Amblin denies the allegations contained in Paragraph 8, except admits that its headquarters are in Universal City, California, that it is qualified to do business in the Northern District of California, and that it co-produced Amazing Stories. Apple and NBCUniversal lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8, and on that basis deny said allegations.

9. No response to Paragraph 9 is required, as it purports to define terms used in the First Amended Complaint.

10. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10, and on that basis deny said allegations.

11. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11, and on that basis deny said allegations.

12. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12, and on that basis deny said allegations.

13. The Amazing Stories Defendants deny the allegations contained in Paragraph 13 to the extent they concern the Amazing Stories Defendants, and lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 to the extent they concern other Defendants, and on that basis they deny said allegations.

FIRST CLAIM – COPYRIGHT INFRINGEMENT

(Against the Amazing Stories Defendants)

14. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14, and on that basis deny said allegations.

15. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15, and on that basis deny said allegations.

16. The Amazing Stories Defendants deny that any evidence of Plaintiff's purported certificate of copyright registration with the United States Copyright Office is attached as Exhibit 1 to the First Amended Complaint, and otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16, and on that basis deny said allegations.

17. The Amazing Stories Defendants deny the allegations contained in Paragraph 17, except admit that the television series titled *Amazing Stories* was released on Apple TV+ on or about March 6, 2020, and that Episode 2 of *Amazing Stories* (the "Episode"), which is titled *The Heat* and was released on Apple TV+ on or about March 13, 2020, and is a ghost story about two friends on a high school track team navigating their feelings for one another after one friend dies and, as a ghost, helps the other train to win a college track scholarship.

1 18. The Amazing Stories Defendants deny the allegations contained in
2 Paragraph 18, except admit that NBCUniversal obtained a license from Defendant
3 Nakamiche Muzic Publishing (“Nakamiche”) for use of the musical composition
4 and recording titled “Side Show” (the “Song”) in the Episode, and used the Song as
5 authorized under the terms of that license, for approximately 90 seconds in the
6 Episode.

7 19. The Amazing Stories Defendants lack knowledge or information
8 sufficient to form a belief as to the truth of the allegations contained in Paragraph
9 19, and on that basis deny said allegations, except admit that NBCUniversal
10 obtained a license for use of the Song from Nakamiche.

11 20. The Amazing Stories Defendants deny the allegations contained in
12 Paragraph 20.

13 21. The Amazing Stories Defendants deny the allegations contained in
14 Paragraph 21, except admit that Plaintiff provided NBCUniversal with what
15 purports to be a copy of a registration for a sound cassette for a work entitled “Side
16 Show”, that Plaintiff sent Defendants a demand letter, and that a portion of the Song
17 was included in the Episode.

18 22. The Amazing Stories Defendants deny the allegations contained in
19 Paragraph 22.

20 23. The Amazing Stories Defendants deny the allegations contained in
21 Paragraph 23.

22 24. The Amazing Stories Defendants deny the allegations contained in
23 Paragraph 24.

24 25. The Amazing Stories Defendants deny the allegations contained in
25 Paragraph 25.

26 26. The Amazing Stories Defendants deny the allegations contained in
27 Paragraph 26 to the extent they concern the Amazing Stories Defendants, and they
28 lack knowledge or information sufficient to form a belief as to the truth of the

allegations contained in Paragraph 26 to the extent they concern other Defendants, and on that basis they deny said allegations.

SECOND CLAIM – CONTRIBUTORY COPYRIGHT INFRINGEMENT

(Against the NAKAMICHE DEFENDANTS)

27. The Amazing Stories Defendants repeat and reassert their responses to the allegations contained in Paragraphs 1 through 26 as though fully set forth herein.

28. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28, and on that basis deny said allegations, except admit that Nakamiche is listed as the relevant administrator for the Song through ASCAP, that Nakamiche represented that it administers 100% of the publishing rights and master rights for the Song, and that Nakamiche authorized the Amazing Stories Defendants' use of the Song in the Episode.

29. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29, and on that basis deny said allegations, except admit that Nakamiche is listed as the relevant administrator for the Song through ASCAP, that Nakamiche represented that it administers 100% of the publishing rights and master rights for the Song, and that Nakamiche authorized the Amazing Stories Defendants' use of the Song in the Episode.

30. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30, and on that basis deny said allegations.

31. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31, and on that basis deny said allegations.

32. The Amazing Stories Defendants deny the allegations contained in Paragraph 32 to the extent they concern Amazing Stories Defendants, specifically

1 denying that they engaged in any infringing conduct, and they lack knowledge or
2 information sufficient to form a belief as to the truth of the allegations contained in
3 Paragraph 32 to the extent they concern other Defendants, and on that basis they
4 deny said allegations.

5 33. The Amazing Stories Defendants deny that they engaged in any
6 infringing conduct, admit that they relied on the ASCAP registration and the
7 representations made by Nakamiche regarding ownership of the Song, and they lack
8 knowledge or information sufficient to form a belief as to the truth of the allegations
9 contained in Paragraph 33 to the extent they concern other Defendants, and on that
10 basis they deny said allegations.

11 34. The Amazing Stories Defendants lack knowledge or information
12 sufficient to form a belief as to the truth of the allegations contained in Paragraph
13 34, and on that basis deny said allegations, except admit that Nakamiche continues
14 to represent to them that Nakamiche administers 100% of the publishing rights and
15 master rights for the Song.

16 35. Paragraph 35 contains legal conclusions, to which no response is
17 required. To the extent a response is required, the Amazing Stories Defendants lack
18 knowledge or information sufficient to form a belief as to the truth of the allegations
19 contained in Paragraph 35, and on that basis deny said allegations.

20 36. Paragraph 36 contains legal conclusions, to which no response is
21 required. To the extent a response is required, the Amazing Stories Defendants state
22 that they lack knowledge or information sufficient to form a belief as to the truth of
23 the allegations contained in Paragraph 36, and on that basis deny said allegations.

24 37. Paragraph 37 contains legal conclusions, to which no response is
25 required. To the extent a response is required, the Amazing Stories Defendants
26 deny the allegations contained in Paragraph 37 to the extent they concern the
27 Amazing Stories Defendants, and lack knowledge or information sufficient to form
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1 a belief as to the truth of the allegations contained in Paragraph 37 to the extent they
2 concern other Defendants, and on that basis they deny said allegations.

3 38. Paragraph 38 contains legal conclusions, to which no response is
4 required. To the extent a response is required, the Amazing Stories Defendants lack
5 knowledge or information sufficient to form a belief as to the truth of the allegations
6 contained in Paragraph 38, and on that basis deny said allegations.

7 39. The Amazing Stories Defendants deny the allegations contained in
8 Paragraph 39 to the extent they concern the Amazing Stories Defendants, and lack
9 knowledge or information sufficient to form a belief as to the truth of the allegations
10 contained in Paragraph 39 to the extent they concern other Defendants, and on that
11 basis they deny said allegations.

12 **THIRD CLAIM – SLANDER OF TITLE**

13 **(Against the NAKAMICHE DEFENDANTS)**

14 40. The Amazing Stories Defendants repeat and reassert their responses to
15 the allegations contained in Paragraphs 1 through 39 as though fully set forth herein.

16 41. The Amazing Stories Defendants lack knowledge or information
17 sufficient to form a belief as to the truth of the allegations contained in Paragraph
18 41, and on that basis deny said allegations, except admit that Nakamiche is listed as
19 the relevant administrator for the Song through ASCAP, that Nakamiche
20 represented that it administers 100% of the publishing rights and master rights for
21 the Song, and that Nakamiche authorized the Amazing Stories Defendants' use of
22 the Song in the Episode.

23 42. The Amazing Stories Defendants lack knowledge or information
24 sufficient to form a belief as to the truth of the allegations contained in Paragraph
25 42, and on that basis deny said allegations.

26 43. Paragraph 43 contains legal conclusions, to which no response is
27 required. To the extent a response is required, the Amazing Stories Defendants lack
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1 knowledge or information sufficient to form a belief as to the truth of the allegations
2 contained in Paragraph 43, and on that basis deny said allegations.

3 44. Paragraph 44 contains legal conclusions, to which no response is
4 required. To the extent a response is required, the Amazing Stories Defendants lack
5 knowledge or information sufficient to form a belief as to the truth of the allegations
6 contained in Paragraph 44, and on that basis deny said allegations.

7 45. Paragraph 45 contains legal conclusions, to which no response is
8 required. To the extent a response is required, the Amazing Stories Defendants lack
9 knowledge or information sufficient to form a belief as to the truth of the allegations
10 contained in Paragraph 45, and on that basis deny said allegations.

11 46. Paragraph 46 contains legal conclusions, to which no response is
12 required. To the extent a response is required, the Amazing Stories Defendants lack
13 knowledge or information sufficient to form a belief as to the truth of the allegations
14 contained in Paragraph 46, and on that basis deny said allegations.

15 47. Paragraph 47 contains legal conclusions, to which no response is
16 required. To the extent a response is required, the Amazing Stories Defendants lack
17 knowledge or information sufficient to form a belief as to the truth of the allegations
18 contained in Paragraph 47, and on that basis deny said allegations, except admit that
19 NBCUniversal reasonably relied on Nakamiche's registration as the relevant
20 administrator of the Song through ASCAP, and representations that it administers
21 100% of the publishing rights and master rights for the Song, in licensing its use of
22 the Song from Nakamiche.

23 48. Paragraph 48 contains legal conclusions, to which no response is
24 required. To the extent a response is required, the Amazing Stories Defendants state
25 that they lack knowledge or information sufficient to form a belief as to the truth of
26 the allegations contained in Paragraph 48, and on that basis deny said allegations.

27 49. Paragraph 49 contains legal conclusions, to which no response is
28 required. To the extent a response is required, the Amazing Stories Defendants lack

1 knowledge or information sufficient to form a belief as to the truth of the allegations
2 contained in Paragraph 49, and on that basis deny said allegations.

3 50. The Amazing Stories Defendants lack knowledge or information
4 sufficient to form a belief as to the truth of the allegations contained in Paragraph
5 50, and on that basis deny said allegations, except admit that NBCUniversal paid
6 Nakamiche a license fee for use of the Song in the Episode.

7 51. The Amazing Stories Defendants lack knowledge or information
8 sufficient to form a belief as to the truth of the allegations contained in Paragraph
9 51, and on that basis deny said allegations.

10 52. Paragraph 52 contains legal conclusions, to which no response is
11 required. To the extent a response is required, the Amazing Stories Defendants state
12 that they lack knowledge or information sufficient to form a belief as to the truth of
13 the allegations contained in Paragraph 52, and on that basis deny said allegations.

14 53. Paragraph 53 contains legal conclusions, to which no response is
15 required. To the extent a response is required, the Amazing Stories Defendants lack
16 knowledge or information sufficient to form a belief as to the truth of the allegations
17 contained in Paragraph 53, and on that basis deny said allegations, except admit that
18 Nakamiche is listed as the relevant administrator for the Song through ASCAP, and
19 that this information is publicly available and searchable.

20 54. Paragraph 54 contains legal conclusions, to which no response is
21 required. To the extent a response is required, the Amazing Stories Defendants lack
22 knowledge or information sufficient to form a belief as to the truth of the allegations
23 contained in Paragraph 54, and on that basis deny said allegations, except admit that
24 Nakamiche continues to represent to them that Nakamiche administers 100% of the
25 publishing rights and master rights for the Song.
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FOURTH CLAIM – INTENTIONAL INTERFERENCE WITH
PROSPECTIVE ECONOMIC RELATIONS
(Against the NAKAMICHE DEFENDANTS)

55. The Amazing Stories Defendants repeat and reassert their responses to the allegations contained in Paragraphs 1 through 54 as though fully set forth herein.

56. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56, and on that basis deny said allegations, except admit that customary and typical music licensing practice is to identify the relevant administrator for the relevant composition through ASCAP or another performing rights organization's website.

57. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57, and on that basis deny said allegations, except specifically deny that they have an economic relationship with Plaintiff, and admit that NBCUniversal obtained a valid license from Nakamiche for use of the Song in the Episode, and used the Song solely as authorized under the terms of that license.

58. The Amazing Stories Defendants deny the allegations contained in Paragraph 58 that they have an economic relationship with Plaintiff, and otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58, and on that basis deny said allegations.

59. The Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59, and on that basis deny said allegations.

60. The Amazing Stories Defendants deny the allegations contained in Paragraph 60 that they have an economic relationship with Plaintiff, and otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60, and on that basis deny said allegations.

1 61. Paragraph 61 contains legal conclusions, to which no response is
2 required. To the extent a response is required, the Amazing Stories Defendants lack
3 knowledge or information sufficient to form a belief as to the truth of the allegations
4 contained in Paragraph 61, and on that basis deny said allegations, except admit that
5 Nakamiche represented that it administers 100% of the publishing rights and master
6 rights for the Song, and that NBCUniversal's reliance on this representation, in
7 addition to the identification of Nakamiche as the relevant administrator through
8 ASCAP, was reasonable.

9 62. Paragraph 62 contains legal conclusions, to which no response is
10 required. To the extent a response is required, the Amazing Stories Defendants lack
11 knowledge or information sufficient to form a belief as to the truth of the allegations
12 contained in Paragraph 62, and on that basis deny said allegations.

13 63. Paragraph 63 contains legal conclusions, to which no response is
14 required. To the extent a response is required, the Amazing Stories Defendants
15 deny the allegation contained in Paragraph 63 that they engaged in direct
16 infringement of Plaintiff's purported copyrights in the Song, and otherwise lack
17 knowledge or information sufficient to form a belief as to the truth of the allegations
18 contained in Paragraph 63, and on that basis deny said allegations.

19 64. The Amazing Stories Defendants lack knowledge or information
20 sufficient to form a belief as to the truth of the allegations contained in Paragraph
21 64, and on that basis deny said allegations.

22 65. The Amazing Stories Defendants deny the allegations contained in
23 Paragraph 65 to the extent they concern the Amazing Stories Defendants, and lack
24 knowledge or information sufficient to form a belief as to the truth of the allegations
25 contained in Paragraph 65 to the extent they concern other Defendants, and on that
26 basis they deny said allegations.

27 66. Paragraph 66 contains legal conclusions, to which no response is
28 required. To the extent a response is required, the Amazing Stories Defendants state

1 that they lack knowledge or information sufficient to form a belief as to the truth of
 2 the allegations contained in Paragraph 66, and on that basis deny said allegations.

3 67. Paragraph 67 contains legal conclusions, to which no response is
 4 required. To the extent a response is required, the Amazing Stories Defendants state
 5 that they lack knowledge or information sufficient to form a belief as to the truth of
 6 the allegations contained in Paragraph 67, and on that basis deny said allegations.

7 68. Paragraph 68 contains legal conclusions, to which no response is
 8 required. To the extent a response is required, the Amazing Stories Defendants state
 9 that they lack knowledge or information sufficient to form a belief as to the truth of
 10 the allegations contained in Paragraph 68, and on that basis deny said allegations.

11 69. Paragraph 69 contains legal conclusions, to which no response is
 12 required. To the extent a response is required, the Amazing Stories Defendants state
 13 that they lack knowledge or information sufficient to form a belief as to the truth of
 14 the allegations contained in Paragraph 69, and on that basis deny said allegations.

15 70. Paragraph 70 contains legal conclusions, to which no response is
 16 required. To the extent a response is required, the Amazing Stories Defendants state
 17 that they lack knowledge or information sufficient to form a belief as to the truth of
 18 the allegations contained in Paragraph 70, and on that basis deny said allegations.

19 71. Paragraph 71 contains legal conclusions, to which no response is
 20 required. To the extent a response is required, the Amazing Stories Defendants state
 21 that they lack knowledge or information sufficient to form a belief as to the truth of
 22 the allegations contained in Paragraph 71, and on that basis deny said allegations.

23 **FIFTH CLAIM – FALSE DESIGNATION OF ORIGIN**

24 **(Against the NAKAMICHE DEFENDANTS)**

25 72. The Amazing Stories Defendants repeat and reassert their responses to
 26 the allegations contained in Paragraphs 1 through 71 as though fully set forth herein.

27 73. Paragraph 73 contains legal conclusions, to which no response is
 28 required. To the extent a response is required, the Amazing Stories Defendants state

1 that they lack knowledge or information sufficient to form a belief as to the truth of
2 the allegations contained in Paragraph 73, and on that basis deny said allegations.

3 74. Paragraph 74 contains legal conclusions, to which no response is
4 required. To the extent a response is required, the Amazing Stories Defendants state
5 that they lack knowledge or information sufficient to form a belief as to the truth of
6 the allegations contained in Paragraph 74, and on that basis deny said allegations.

7 75. Paragraph 75 contains legal conclusions, to which no response is
8 required. To the extent a response is required, the Amazing Stories Defendants state
9 that they lack knowledge or information sufficient to form a belief as to the truth of
10 the allegations contained in Paragraph 75, and on that basis deny said allegations.

11 76. Paragraph 76 contains legal conclusions, to which no response is
12 required. To the extent a response is required, the Amazing Stories Defendants state
13 that they lack knowledge or information sufficient to form a belief as to the truth of
14 the allegations contained in Paragraph 76, and on that basis deny said allegations.

15 77. Paragraph 77 contains legal conclusions, to which no response is
16 required. To the extent a response is required, the Amazing Stories Defendants state
17 that they lack knowledge or information sufficient to form a belief as to the truth of
18 the allegations contained in Paragraph 77, and on that basis deny said allegations.

19 78. Paragraph 78 contains legal conclusions, to which no response is
20 required. To the extent a response is required, the Amazing Stories Defendants state
21 that they lack knowledge or information sufficient to form a belief as to the truth of
22 the allegations contained in Paragraph 78, and on that basis deny said allegations.

23 79. No response to Paragraph 79 is required, as it purports to characterize
24 the relief sought by Plaintiff in this action. To the extent a response is required, the
25 Amazing Stories Defendants admit that Plaintiff purports to seek an award of his
26 reasonable attorneys' fees.

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SIXTH CLAIM – DEFAMATION PER SE

(Against A. ANDERSON)

80. The Amazing Stories Defendants repeat and reassert their responses to the allegations contained in Paragraphs 1 through 79 as though fully set forth herein.

81. Paragraph 81 contains legal conclusions, to which no response is required. To the extent a response is required, the Amazing Stories Defendants state that they lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 81, and on that basis deny said allegations, except admit that Defendant Amber Anderson communicated and represented to NBCUniversal that Plaintiff has previously tried to claim ownership of the Song and other music produced by Defendant Daryl Anderson, p/k/a “DJ Daryl”, and induced a third party into giving him \$140,000 by telling that third party that Plaintiff produced all of the songs on the album “41Fivin”, which includes the Song.

82. To the extent the allegations in Paragraph 82 concern the statements referenced in Paragraph 81, the Amazing Stories Defendants admit the allegations contained in Paragraph 82.

83. Paragraph 83 contains legal conclusions, to which no response is required. To the extent a response is required, the Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 83, and on that basis deny said allegations.

84. Paragraph 84 contains legal conclusions, to which no response is required. To the extent a response is required, the Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 84, and on that basis deny said allegations.

85. Paragraph 85 contains legal conclusions, to which no response is required. To the extent a response is required, the Amazing Stories Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 85, and on that basis deny said allegations.

1 86. Paragraph 86 contains legal conclusions, to which no response is
2 required. To the extent a response is required, the Amazing Stories Defendants lack
3 knowledge or information sufficient to form a belief as to the truth of the allegations
4 contained in Paragraph 86, and on that basis deny said allegations.

5 87. Paragraph 87 contains legal conclusions, to which no response is
6 required. To the extent a response is required, the Amazing Stories Defendants lack
7 knowledge or information sufficient to form a belief as to the truth of the allegations
8 contained in Paragraph 87, and on that basis deny said allegations.

9 88. Paragraph 88 contains legal conclusions, to which no response is
10 required. To the extent a response is required, the Amazing Stories Defendants lack
11 knowledge or information sufficient to form a belief as to the truth of the allegations
12 contained in Paragraph 88, and on that basis deny said allegations.

13 89. Paragraph 89 contains legal conclusions, to which no response is
14 required. To the extent a response is required, the Amazing Stories Defendants lack
15 knowledge or information sufficient to form a belief as to the truth of the allegations
16 contained in Paragraph 89, and on that basis deny said allegations.

17 90. Paragraph 90 contains legal conclusions, to which no response is
18 required. To the extent a response is required, the Amazing Stories Defendants lack
19 knowledge or information sufficient to form a belief as to the truth of the allegations
20 contained in Paragraph 90, and on that basis deny said allegations.

21 **SEVENTH CLAIM – DECLARATORY RELIEF**

22 **(Against All Defendants)**

23 91. The Amazing Stories Defendants repeat and reassert their responses to
24 the allegations contained in Paragraphs 1 through 90 as though fully set forth herein.

25 92. The Amazing Stories Defendants deny the allegations contained in
26 Paragraph 92 to the extent they concern the Amazing Stories Defendants, except
27 admit that they contest and dispute that Plaintiff has established any ownership
28 interest in the Song, that ASCAP's listing of Nakamiche is incorrect, and that

1 Nakamiche lacks the rights to administer the publishing and master rights for the
2 Song. To the extent the allegations contained in Paragraph 92 concern other
3 Defendants, the Amazing Stories Defendants lack knowledge or information
4 sufficient to form a belief as to the truth of the allegations contained in Paragraph 92
5 to the extent they concern other Defendants, and on that basis they deny said
6 allegations.

7 93. No response to Paragraph 93 is required, as it purports to characterize
8 the relief Plaintiff seeks in this action. To the extent a response is required, the
9 Amazing Stories Defendants admit that Plaintiff purports to seek a declaration that
10 he owns the Song.

11 **AFFIRMATIVE DEFENSES**

12 As separate and affirmative defenses to the First Amended Complaint, the
13 Amazing Stories Defendants allege as follows:

14 **FIRST AFFIRMATIVE DEFENSE**

15 **(Statute of Limitations)**

16 1. Plaintiff's claims of copyright ownership are barred by the applicable
17 statute of limitations.

18 **SECOND AFFIRMATIVE DEFENSE**

19 **(License)**

20 2. Plaintiff's claims against the Amazing Stories Defendants are barred
21 because NBCUniversal has a valid license for use of the Song.

22 **THIRD AFFIRMATIVE DEFENSE**

23 **(Laches)**

24 3. Plaintiff's claims against the Amazing Stories Defendants are barred by
25 the equitable doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

(Estoppel)

4. Plaintiff's claims against the Amazing Stories Defendants are barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Waiver)

5. Plaintiff's claims against the Amazing Stories Defendants are barred by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

(Reasonable Reliance)

6. Plaintiff's claim for damages against the Amazing Stories Defendants is barred because Nakamiche is listed as the relevant administrator for the Song through ASCAP and the Amazing Stories Defendants reasonably relied on that listing.

SEVENTH AFFIRMATIVE DEFENSE

(Monetary Damages)

7. Plaintiff's claim for injunctive relief enjoining the Amazing Stories Defendants' use of the Song is barred because monetary damages would provide an adequate remedy for Plaintiff's alleged injury.

EIGHTH AFFIRMATIVE DEFENSE

(Unclean Hands)

8. Plaintiff's claims against the Amazing Stories Defendants are barred by the doctrine of unclean hands.

WHEREFORE, Defendants pray as follows:

1. That Plaintiff recovers nothing by reason of his First Amended Complaint, and that the First Amended Complaint be dismissed with prejudice;

1 2. That the Amazing Stories Defendants be awarded all costs, fees,
2 expenses and disbursements that they have incurred and will incur in the defense of
3 this suit; and

4 3. For such other and further relief as the Court deems just and proper.
5

6 Dated: June 26, 2020

LOEB & LOEB LLP
DAVID GROSSMAN

8 By: /s/ David Grossman
9 David Grossman
10 Attorneys for Defendants
11 APPLE INC., NBCUNIVERSAL
12 MEDIA, LLC, and STORYTELLER
13 DISTRIBUTION CO., LLC, dba
14 AMBLIN PARTNERS
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